




KANSAS DEPARTMENT OF CORRECTIONS

	INTERNAL MANAGEMENT POLICY AND PROCEDURE	SECTION NUMBER 11-105	PAGE NUMBER 1 of 4
		SUBJECT: DECISION MAKING: Notifications and Transfers of International Offenders	
Approved By:  Secretary of Corrections		Original Date Issued:	10-21-98
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		Replaces Amendment Issued:	02-21-04
Reissued By:  Policy & Procedure Coordinator		The substantive content of this IMPP has been reissued as per the appropriate provisions of IMPP 01-101. The only modifications within the reissue of this document concern technical revisions of a non substantive nature. Date Reissued:	
		05-26-11	

POLICY

All offenders admitted to the reception center shall be asked to identify their country of citizenship. Offenders indicating citizenship other than the United States shall be informed of the possibility of transfer under the International Treaty Agreement and informed that such transfers are a privilege rather than a right. Each foreign national shall be provided information to facilitate the offender's access to the diplomatic representative of his/her country of citizenship (ACI 3-4267-1) and advised of his/her right to have the consular officials of that country notified. Regardless of the offender's wishes, in some cases, the designated reception center staff member shall be required to notify the nearest consular officials of the detention of a foreign national (see Attachment A).

All foreign nationals shall be requested to document either their interest or lack of interest in being transferred to the country of citizenship. Offenders who are foreign nationals may, at any time during their incarceration following transfer from the reception center, request transfer under the International Trade Agreement. All transfer requests shall be voluntary on the part of the offenders; offenders shall be required to meet the eligibility requirements for transfer as established by the U.S. Treaty and by the Department of Corrections.

In the event of the death of a foreign national while in the custody of the Department of Corrections, the consular officials of the offender's country of citizenship shall be notified, per IMPP 01-114. (ACI 3-4375)

DEFINITIONS

Consular official: A citizen of a foreign country employed by a foreign government and authorized to provide assistance on behalf of that government to that government's citizens in a foreign country.

Foreign national: An individual who is a citizen of another nation or who has established dual citizenship.

Treaty nations: Nations (see Attachment A) which have entered into formal agreement with the United States regarding the transfer of sentenced persons.

PROCEDURES

I. Determination of Citizenship and Notification of Rights for Foreign Nationals

- A. Inquiry into and the determination of each offender's citizenship shall be required during the admissions process at the reception center, per provisions of IMPP 11-102.
- B. All offenders who indicate citizenship other than the United States shall be read and/or provided, in a language they understand, a copy of a Statement to Arrested or Detained Foreign Nationals, as

provided by the United States Department of State. The statements are provided for both Non-Mandatory and Mandatory Notifications.

1. Non-Mandatory Notification Statement

- a. The non-mandatory notification statement includes the following information and inquiry:
 - (1) As a detained foreign national the offender is entitled to have the country of citizenship's consular representatives in the United States notified of the offender's place of incarceration;
 - (2) Advise the offender that a consular official from the country of citizenship may assist in obtaining legal counsel for the offender, may contact the offender's family and may visit the offender during the period of incarceration, etc.;
 - (3) Advise the offender that he/she may request the notification of the offender's citizenship country's consular immediately or at any time during the offender's period of incarceration; and,
 - (4) Inquire as to the offender's preference regarding notification of the country's consular officials.

2. Mandatory Notification Statement

- a. The mandatory notification statement includes the following information:
 - (1) As a detained foreign national, the Department is required to notify the country of citizenship's consular representatives in the United States of the offender's place of incarceration;
 - (2) Advise the offender that a consular official from the country of citizenship may call or visit the offender following the notification;
 - (3) Advise the offender that he/she is not obligated to accept the consular representative's assistance although the representative may be helpful in obtaining legal counsel, contacting the offender's family, visiting the offender, etc.; and,
 - (4) Advise the offender that the Department will notify the country's consular officials as soon as possible.

C. Offenders shall be informed of the procedures for transfer to their country of citizenship and requested to indicate their interest or lack of interest in requesting such a transfer on the Transfer Inquiry form (Attachment B, Form #11-105-001).

- 1. Offender may request transfer under the International Treaty Agreement at any time during their incarceration, following their transfer from the reception center.

D. The reception center staff shall complete the Inmate Information Provided to Treaty Nation (Attachment C, Form #11-105-002), including all relevant attachments, on all offenders whose country of citizenship is included as one of the mandatory notification countries and for those offenders who indicate an interest in transfer to their country of citizenship.

- 1. The information form shall be provided, via fax or certified mail, to the nearest consular officials of the country indicated as the country of citizenship.
- 2. A copy of the form and all written communications regarding the notification of consular officials shall be retained in the offender's facility record.

II. Eligibility Criteria for Transfer of Foreign Nationals

- A. Foreign nationals may request transfer to their country of origin provided that their country of citizenship has executed a treaty with the United States.
- B. The following eligibility criteria, established by the U. S. Treaty, apply to all applicants and are common to all treaty nations:
 - 1. The offender must be a citizen of the receiving country;
 - 2. The offender can provide evidence of community support in the treaty nation;
 - 3. The offender must not have any outstanding legal financial obligation(s);
 - 4. The offender must consent to the transfer;
 - 5. The offender must not be incarcerated/in the custody of the Department for a military or immigration offense;
 - 6. The offender must have at least six (6) months of the current sentence remaining to be served at the time of the request for transfer; and,
 - 7. The offender has no pending appeal proceedings or collateral attack upon the current conviction, including post-conviction relief.
 - a. Detainers from Immigrations and Naturalization Services shall not serve to render an offender ineligible for transfer.

III. Procedures to Process Requests for Transfer

- A. When an offender has formally indicated interest in a transfer to the country of citizenship, per Attachment A, the assigned counselor will utilize the Checklist for Transfer Packet to Treaty Nation (Attachment D, Form #11-105-003) in preparing the classification referral. Under normal circumstances, this shall be completed after the offender has completed the RDU evaluation process and been assigned to a facility for housing. The review shall address:
 - 1. The offender's birthplace or right to citizenship in the treaty nation, to be documented by a birth certificate or other legal means.
 - 2. The offender's community support in the treaty nation, providing names and addresses when available.
 - 3. The status of the offender's legal financial obligations must be verified to ensure that there are no outstanding obligations.
 - 4. The offender's indication of interest and consent to the transfer to the treaty nation.
 - 5. The offender's legal status, including verification of the nature of the crime, pending appeals, and time remaining on the current sentence.
- B. Upon conclusion of the classification review, the complete packet of application and information forms shall be forwarded to the Deputy Secretary of Facility Management or designee. The packet shall include:
 - 1. Notice Regarding International Transfer (Attachment E, Form #11-105-004);
 - 2. Transfer Inquiry form (Attachment B); and,
 - 3. Inmate Information Provided to Treaty Nation (Attachment D).

- C. The Deputy Secretary of Facility Management or Designee shall, within 10 working days, review the packet and submit a recommendation for disposition to the Secretary of Corrections.
- D. If the case is deemed to be appropriate for transfer by the Secretary, a written recommendation shall be submitted to the Governor for approval pursuant to KSA 22-3723.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS REQUIRED

None.

REFERENCES

KSA 22-3723
IMPP 01-114, 11-102
ACI 3-4267-1, 3-4375

ATTACHMENTS

Attachment A - Mandatory Notification Countries and Jurisdictions, 1 page
Attachment B - Transfer Inquiry, 1 page
Attachment C - Inmate Information Provided to Treaty Nation, 1 page
Attachment D - Checklist for Transfer Packet to Treaty Nation, 1 page
Attachment E - Notice Regarding International Prisoner Transfer, 1 page

KANSAS DEPARTMENT OF CORRECTIONS
INTERNATIONAL TRANSFER OF OFFENDERS
MANDATORY NOTIFICATION COUNTRIES AND JURISDICTIONS

THE NEAREST CONSULAR OFFICIALS ***MUST BE NOTIFIED*** OF THE ARREST OR DETENTION OF A FOREIGN NATIONAL FROM THE FOLLOWING COUNTRIES OR JURISDICTIONS, ***REGARDLESS OF THE OFFENDERS WISHES.***

Antigua and Barbuda
Armenia
Azerbaijan
Bahamas, The
Barbados
Belarus
Belize
Brunei
Bulgaria
China¹
Costa Rica
Cyprus
Czech Republic
Dominica
Fiji
Gambia, The
Georgia
Grenada
Guyana
Hong Kong²
Hungary
Jamaica
Japan
Kazakhstan
Kiribati
Kyrgyzstan

Malaysia
Malta
Mauritius
Moldova
Mongolia
Montenegro
Nigeria
Philippines
Poland (non-permanent residents only)
Romania
Russia
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Serbia
Seychelles
Slovakia
Sierra Leone
Singapore
Tajikistan
Tanzania
Tonga
Trinidad and Tobago
Turkmenistan
Tuvalu
Ukraine
United Kingdom³
U.S.S.R.⁴
Uzbekistan
Zambia
Zimbabwe

¹Notification is not mandatory in the case of persons who carry □Republic of China passports issued by Taiwan. Such persons should be informed without delay that the nearest office of the Taipei Economic and Cultural Representative Office (□TECRO), the unofficial entity representing Taiwans interests in the United States, can be notified at their request.

²Hong Kong reverted to Chinese sovereignty on July 1, 1997, and is now officially referred to as the Hong Kong Special Administrative Region, or □SAR□ Under paragraph 3(f)(2) of the March 25, 1997, U.S.-China Agreement on the Maintenance of the U.S. Consulate General in the Hong Kong Special Administrative Region, U.S. officials are required to notify Chinese officials of the arrest or detention of the bearers of Hong Kong passports in the same manner as is required for bearers of Chinese passports □i.e., immediately, and in any event within four days of the arrest or detention.

³British dependencies also covered by this agreement are Anguilla, British Virgin Islands, Bermuda, Montserrat, and the Turks and Caicos Islands. Their residents carry British passports.

⁴Although the U.S.S.R. no longer exists, some nationals of its successor states may still be traveling on its passports. Mandatory notification should be given to consular officers for all nationals of such states, including those traveling on old U.S.S.R. passports. The successor states are listed separately above.

KANSAS DEPARTMENT OF CORRECTIONS
TRANSFER INQUIRY FORM

1. INMATE NAME	2. Age
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3. KDOC Number	4. Country of Citizenship
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5. Institution	6. Offense
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7. County of Conviction 8. Sentence	9. Earliest Release Date
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<input type="checkbox"/>	INTEREST INDICATED
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I hereby indicate an interest in being transferred to continue serving the sentence imposed by the Kansas State judicial authorities to the country of my citizenship, indicated above. I understand that this is just an inquiry to obtain data before the actual request for transfer and is not binding upon either the Kansas Department of Corrections or myself.

<input type="checkbox"/>	INTEREST NOT INDICATED
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I hereby indicate that I am not now interested in being transferred to continue serving the sentence imposed by the Kansas State judicial authorities to the country of my citizenship, indicated above. I understand that my decision is not binding and that I may express an interest at a later date if I so decide.

INMATE'S SIGNATURE		DATE	INMATE NUMBER
WITNESS SIGNATURE	DATE	WITNESS SIGNATURE	DATE

KANSAS DEPARTMENT OF CORRECTIONS
INMATE INFORMATION PROVIDED TO TREATY NATION

Facility:_____

1. INMATE NAME		2. Date of Birth	
3. KDOC Number		4. Offense	
5. Sentence		6. Length of Time Served (including Jail Credits)	
7. Completed by:		9. Date:	
10. Notarized by:		11. Date:	

ATTACHMENTS:
Certified copy of Journal Entry
Initial Classification Review/Classification Referral

KANSAS DEPARTMENT OF CORRECTIONS
CHECKLIST FOR TRANSFER PACKET TO TREATY NATION

THE FOLLOWING INFORMATION IS **REQUIRED** TO BE INCLUDED IN THE PACKET FOR CONSIDERATION OF TRANSFER OF PRISONERS TO A FOREIGN COUNTRY UNDER THE TREATY AGREEMENT ON THE TRANSFER OF SENTENCED PERSONS.

NAME	NUMBER
MAIDEN NAME/ALIAS	NATION
FACILITY	DATE

- ___ 1. A request by the prisoner to be considered for transfer. (KDOC form 11-105-001)
- ___ 2. The full name (including the maiden name of a married woman and known aliases) and the date and place of birth of the prisoner.
- ___ 3. The height, ethnic appearance, a photograph, and the fingerprints of the prisoner.
- ___ 4. The prisoners address in the Treaty Nation and/or the address of close relatives.
- ___ 5. The number of the prisoners passport and any evidence that the prisoner is a citizen or otherwise has the right of abode in the Treaty Nation.
- ___ 6. A certified copy of the judgement of the court which sentenced the prisoner and of the law/statute on which the sentencing was based.
- ___ 7. A statement of the facts on which the sentence was based (including, if possible, information on the method used in committing the offense).
- ___ 8. Verification of payment of court costs and victim restitution, as ordered.
- ___ 9. The nature, duration, and date of commencement of the sentence, the sentencing court, and, the name of the police area concerned.
- ___ 10. Confirmation that the normal time limit for appeal has expired and that no appeal or other proceedings are pending.
- ___ 11. A statement indicating how much of the sentence will have been served at a specific date (the approximate date when it seems likely that transfer might be possible), including information about pre-trial detention, remission, or any other factor relevant to enforcement of the sentence. It would be helpful to have full details of the relevant calculations.
- ___ 12. Copies of any medical or social reports on the prisoner, particularly any psychiatric assessment, information about treatment in the sentencing state, and any recommendation for further treatment in the Treaty Nation in the event of the prisoners transfer.
- ___ 13. An assessment of the disciplinary and escape risk which the prisoner may pose.
- ___ 14. Details of any other convictions in the sentencing state.

COMMENTS:

KANSAS DEPARTMENT OF CORRECTIONS
NOTICE REGARDING INTERNATIONAL PRISONER TRANSFER

DATE: _____

TO: DEPUTY SECRETARY OF FACILITY MANAGEMENT

FROM: _____
WARDEN

FACILITY

THIS OFFENDER HAS INDICATED AN INTEREST IN BEING TRANSFERRED TO HIS/HER COUNTRY OF CITIZENSHIP TO COMPLETE A SENTENCE IMPOSED IN THE STATE OF KANSAS. THE OFFENDER IS QUALIFIED FOR TRANSFER. THE FOLLOWING INFORMATION IS PROVIDED TO FACILITATE THE REVIEW PROCESS.

OFFENDERS NAME: _____ KDOC NO.: _____

COUNTRY OF CITIZENSHIP: _____

OFFENSE(S)/CASE NUMBER(S):

SENTENCE(S)/DATE OF SENTENCING:

SENTENCING COURT(S)/JURISDICTION(S):

RELEASE INFORMATION:

EARLIEST RELEASE DATE:

DATE OF LAST PAROLE BOARD ACTION (if applicable):

MANDATORY RELEASE :

PROOF OF FOREIGN NATIONAL CITIZENSHIP AVAILABLE:

☐

YES (Specify and attach
Proof of Citizenship)

☐

NO

OTHER PERTINENT INFORMATION:

Signature of Preparer:	Date:	Reviewers Signature	Date:
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